

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS**

UNITED STATES OF AMERICA,
Plaintiff,

vs.

PENG CHANTHALANGSY,
Defendant.

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Case No. **5:17-CR-50027-TLB**

**MOTION TO CONTINUE SENTENCING HEARING
AND TO WITHDRAW AS ATTORNEY**

COMES NOW the Office of the Federal Public Defender and its attorney, **Jack Schisler**, and does hereby respectfully move this Court as to the following: for a continuance of the defendant's sentencing hearing currently set for November 15, 2017, as well as related deadlines, to dates to be determined. Counsel further seeks to withdraw as the attorney for Mr. Chanthalangsy, and requests that substitute counsel be appointed. The motion is based upon the following:

1. On October 31, 2017, Mr. Chanthalangsy filed his second *pro se* motion seeking appointment of a substitute attorney. Doc. 33.
2. In the motion, Mr. Chanthalangsy makes a number of allegations regarding counsel's effectiveness pertaining to his upcoming sentencing. He states his concern that counsel may hold a "grudge" against him for the previous motion seeking a substitute attorney, Doc. 17, and that the current motion may also precipitate such a grudge. He advises that counsel has ignored options that would be beneficial to him, including the "defense option" of probation. He states that counsel has failed to discuss "paperwork" with him, and that he has been left incommunicado due to his claims of being unable to reach counsel by telephone. In sum, he appears to be

dissatisfied with counsel's performance, and continues to feel a lack of communication exists, as were his issues in first *pro se* motion.

3. Counsel takes no position on Mr. Chanthalangsy's claims at this time, as doing so would be inappropriate; however, counsel does agree, although for different reasons, with Mr. Chanthalangsy's claim regarding communication. It is counsel's position that Mr. Chanthalangsy's motions, Docs. 17 and 33, demonstrate the existence of a complete breakdown in communication that is a justifiable and, in this case, a compelling basis for an attorney to seek to withdraw from the representation of a client. See *United States v. Swinney*, 970 F.2d 494, 499 (8th Cir. 1992). For that reason, and to alleviate Mr. Chanthalangsy's apparent concern that counsel might work to undermine him, or in some way abandon his duty of zealous representation, counsel seeks to withdraw.

4. A continuance of the sentencing hearing, and associated deadlines, would be appropriate under the circumstances, as a continuance would allow substitute counsel sufficient time to prepare, and so preserve Mr. Chanthalangsy's rights.

5. The attorney for the government, AUSA Dustin Roberts, is aware of this motion, and is unopposed to the sentencing hearing being continued.

WHEREFORE, counsel respectfully requests this Court to continue Mr. Chanthalangsy's sentencing hearing, all associated deadlines, and to allow counsel and the Office of the Federal Public Defender to withdraw from all further representation of Mr. Chanthalangsy, and to appoint substitute counsel.

Respectfully submitted,

BRUCE D. EDDY
FEDERAL PUBLIC DEFENDER

WESTERN DISTRICT OF ARKANSAS

By: /s/ *Jack Schisler*

Jack Schisler
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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing registered CM/ECF participants.

/s/ *Jack Schisler*

Jack Schisler
Assistant Federal Public Defender